



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

112097

GENERAL NOTICE LETTER

URGENT LEGAL MATTER: PROMPT REPLY NECESSARY

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. Lothar D. Gumberich
Vice President for Marketing
Bally Engineered Structures, Inc.
20 North Front Street
P.O. Box 98
Bally, Pennsylvania 19503

SEP 2 1992

Re: Crossley Farm Site
Huff's Church, Pennsylvania

Dear Mr. Gumberich:

This letter notifies you that you may incur, or may have incurred, liability under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a), with respect to the Crossley Farm Superfund Site ("Site"). This letter also notifies you of potential response activities at the Site, which you may be asked to perform or pay for at a later date if EPA performs them.

BACKGROUND

CERCLA, more commonly known as Superfund, was enacted in 1980, reauthorized and amended in 1986, and reauthorized again in 1990. CERCLA has several key objectives, including setting priorities for cleanup of the worst hazardous sites in the country, and determining the parties potentially responsible for investigating, cleaning up or paying the costs of cleaning up such hazardous sites. These parties are referred to as "potentially responsible parties" or "PRPs".

On July 29, 1991, the United States Environmental Protection Agency ("EPA") proposed to include the Site on the National Priorities List ("NPL"), a list of the most serious uncontrolled or abandoned sites at which releases of hazardous substances have occurred or may occur.

NOTICE OF YOUR POTENTIAL LIABILITY

EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA

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believes that you may be a PRP for this Site. PRPs under CERCLA include: 1) current owners and operators of the site; 2) owners and operators of the site at the time hazardous substances are disposed; 3) persons who arranged for disposal or treatment of hazardous substances sent to the site; and 4) persons who accepted hazardous substances for transport to the site, and who selected the site for disposal. These categories are set forth in Section 107 of CERCLA, 42 U.S.C. § 9607.

Based on State and Federal records and/or other information, EPA has information indicating that Bally Engineered Structures, Inc. is a PRP for this Site. Specifically, EPA has reason to believe that Bally Engineered Structures, Inc. was a generator of wastes disposed at the Site.

The EPA has documented the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, as those terms are defined in Sections 101(14) and 101(33) of CERCLA, 42 U.S.C. §§ 9601(14) and (33). EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a PRP or PRPs will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, or require them to be performed by responsible parties under Section 106 of CERCLA, 42 U.S.C. § 9606.

EPA may order PRPs, or any one of them, to perform response actions deemed necessary by EPA to protect the public health, welfare or the environment. Additionally, PRPs may be liable for all costs incurred by the government in responding to any release or threatened release at the Site, under Sections 104 and 107(a) of CERCLA, 42 U.S.C. §§ 9604 and 9607(a), and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 et seq., and other laws. Such actions and costs may include, but are not limited to, expenditures for conducting a Remedial Investigation/Feasibility Study ("RI/FS"), conducting a Remedial Design/Remedial Action ("RD/RA"), and other investigation, planning, response, oversight, and enforcement activities related to the Site. In addition, potentially responsible parties may be required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing the amount or extent of such damages related to a site.

You should also be aware that once a site is placed on the NPL pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, it cannot be deleted until after an RI/FS has been completed and the necessary remedial action has been conducted in accordance with EPA guidance and the National Contingency Plan ("NCP"), published at 40 C.F.R. Part 300.

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By this letter, EPA notifies Bally Engineered Structures, Inc. of your company's potential liability with regard to this matter and encourages you to perform or to finance voluntarily those response activities that EPA determines to be necessary at the Site.

SITE RESPONSE ACTIVITIES

In accordance with CERCLA and other authorities, EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site.

EPA involvement began in 1986 with the sampling and analysis of the drinking water for residents in an area hydrogeologically downgradient from the Site. Trichloroethylene ("TCE") and tetrachloroethylene ("PCE") were detected in the residential wells. In 1987, EPA began a removal action by installing carbon filtration units in private dwellings downgradient from the Site. A hydrogeologic investigation also began, which included the construction of 21 monitoring wells, the performance of a soil gas survey, and well sampling and analysis.

Since that time, EPA has maintained the carbon filtration units and has continued to sample residential wells. When concentrations were found above the removal criteria of 180 parts per billion ("ppb") TCE carbon filtration units have been supplied. 180 ppb TCE is based on one half of the Drinking Water Equivalent Level and in consultation with The Agency for Toxic Substances and Disease Registry ("ATSDR").

At present, EPA is planning to conduct the following studies at the Site:

1. Remedial Investigation ("RI") to identify and document the Site characteristics and to define the nature and extent of soil, air, surface water, and groundwater contamination at the Site and the risks posed by the Site.
2. Feasibility Study ("FS") to evaluate alternative remedial action to remove, treat, or contain hazardous substances, pollutants, and/or contaminants at the Site.

EPA will also continue to monitor the residential drinking water supplies and perform operation and maintenance on the existing filter systems.

EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws.

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SPECIAL NOTICE AND NEGOTIATION MORATORIUM

EPA anticipates that you will receive an additional notice from EPA in the future concerning this Site. The following four paragraphs are a detailed description of that future notice. You do not need to take any specific action regarding this future notice at this time. The description is provided to you here so that you can anticipate and understand the process.

The future notice will either inform you that EPA is using the CERCLA Section 122(e) special notice procedure to formally negotiate terms of a consent order or consent decree to conduct or to finance Site response activities, or it will inform you that EPA is electing not to utilize that procedure. If EPA does not use the Section 122(e) special notice procedure, the notice will specify why special notice was not considered appropriate in this case.

Under Section 122(e), EPA has discretionary authority to use the special notice procedure if EPA determines that such procedure would facilitate an agreement between EPA and the PRPs and would expedite response action at the Site. Use of this special notice procedure triggers a moratorium on certain EPA activities at the Site. The purpose of the moratorium is to provide a period of time when PRPs and EPA may enter into formal negotiations for PRP conduct or financing of the response activities at the Site.

The initial moratorium period, during which EPA will not initiate implementation of the RI/FS, lasts for 60 days after receipt of special notice. If EPA determines that a good faith offer to perform or to finance the RI/FS is submitted by the PRPs within those 60 days, the statute provides a 30-day extension for further negotiations. Following completion of the RI/FS, the second moratorium period during which EPA will not initiate response activities occurs with regard to the RD/RA. The RD/RA moratorium also lasts for 60 days after the RD/RA special notice. If EPA determines that a good faith offer is submitted by the PRPs within those 60 days, the statute provides a 60-day extension for further negotiations.

If EPA determines that a good faith offer has not been submitted within the first 60 days of any moratorium period, EPA may terminate the negotiation moratorium pursuant to Section 122(e)(4) of CERCLA. EPA then may commence response activities or enforcement actions as it deems appropriate. In the absence of an agreement with the parties to perform or to finance the necessary response activities, EPA may undertake these activities and pursue civil litigation against the parties for reimbursement of Site expenditures. Alternatively, EPA may issue a unilateral administrative order pursuant to Section 106(a) of CERCLA to require PRPs to initiate response activities, and/or may commence

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civil litigation pursuant to Section 106(a) of CERCLA to obtain similar relief. Failure to comply with an administrative order issued pursuant to Section 106(a) of CERCLA may result in a fine of up to \$25,000 per day, pursuant to Section 106(b) of CERCLA, and/or imposition of treble damages, pursuant to Section 107(c)(3).

The preceding explanation of special notice and the negotiation moratorium procedure is for your general information about the Superfund process. It does not require any specific action on your part at this time. (But see PRP Response and EPA Contact Section, below.)

INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA encourages good faith negotiations between the PRPs and EPA, as well as among the PRPs. Therefore, EPA is providing the following information as an Attachment to this letter: a list of the names and addresses of PRPs to whom this notification is being sent or who have previously been notified. This list represents EPA's preliminary findings on the identities of the PRPs for this Site. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at or from the Site.

PRP STEERING COMMITTEE

EPA recommends that all PRPs meet to select a Steering Committee responsible for representing the group's interests. Establishing a manageable group is very important for successful negotiations with EPA.

EPA representatives are available to meet or confer with the PRPs or a steering committee on a mutually convenient date in the near future.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. §9613(k), EPA establishes an administrative record that contains documents which form the basis for EPA's decision on the selection of each response action for a site. The administrative record will be available to the public for inspection and comment before any remedy is selected by EPA. A copy of the record will be located near the Site, and another copy will be located at the EPA Regional office in Philadelphia. The contact person for comments on the record will be provided with the record when such record is available for review at these locations.

Upon completion of the public comment period and EPA's review of the comments, EPA will select the remedy for the Site. The selection of the remedy will be documented in a Record of

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Decision ("ROD"), which will also become part of the administrative record.

PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA in writing within two weeks of your receipt of this letter to express your willingness or unwillingness to participate in future negotiations concerning this Site. Your response will be considered by EPA in determining whether the special notice procedure should be used for this Site.

If you are already involved in discussions with State or local authorities, engaged in voluntary action or involved in a lawsuit regarding this Site, you should not interpret this letter as advising or directing you to restrict or to discontinue any such activities. You should, however, report the status of those discussions or activities in your letter to EPA. Please provide EPA with a copy of your letter to any other party involved in those discussions.

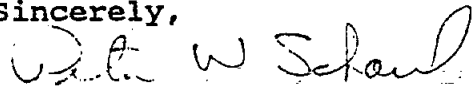
Your response should be addressed to:

Roy Schrock (3HW22)
United States Environmental Protection Agency
841 Chestnut Street
Philadelphia, PA 19107

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be, and cannot be relied upon, as a final Agency position on any matter set forth herein.

If you have any questions regarding the foregoing, please contact Roy Schrock at (215) 597-0913. Legal questions can be referred to Charles Hayden at (215) 597-3211.

Sincerely,


Abraham Ferdas, Associate Division
Director for Superfund Programs
Hazardous Waste Management Division

Enclosure

cc: Ron Klintokowski, PADER

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(See Reverse)

PS Form 3800, June 1985PS Form 3811, November 1990 ★ U.S. GPO: 1991-257-006 DOMESTIC RETURN RECEIPT

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